

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

BRIAN HUTCHINS	§	
VS.	§	CIVIL ACTION NO. 9:24-CV-2
DIRECTOR, TDCJ-ID	§	

MEMORANDUM OPINION REGARDING TRANSFER

Petitioner Brian Hutchins, an inmate currently confined at the Polunsky Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brings this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The petition was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

Title 28 U.S.C. § 2254(a) allows a district court to “entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). A state prisoner is required to file his federal petition for writ of habeas corpus either in the district where the prisoner is incarcerated or the district where the prisoner was convicted and sentenced. 28 U.S.C. § 2241(d). Although both district courts have jurisdiction to entertain the application, “[t]he district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.” *Id.*

Petitioner filed this petition in the Lufkin Division of the Eastern District of Texas. Petitioner is confined at the Polunsky Unit, which is located in the Eastern District of Texas. However, Petitioner was convicted and sentenced in Waco, Texas, which is located in the Waco Division of the Western District of Texas.

The court has considered the circumstances and has determined that the interests of justice would be served by transferring this petition to the district where Petitioner was convicted and sentenced. Therefore, the petition should be transferred to the Western District of Texas for hearing and determination. It is accordingly

ORDERED that this petition for writ of habeas corpus is **TRANSFERRED** to the Waco Division of the United States District Court for the Western District of Texas.

SIGNED this 8th day of January, 2024.



Zack Hawthorn
United States Magistrate Judge